IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Crl.MC.No. 4088 of 2000(A)

CC.355/1999 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONERS: ACCUSED

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1. M/S.SOWPARNIKA HERBAL EXTRACTS AND PHARMACEUTICALS PVT. LTD. NO.4, M.BLOCK ANNA NAGAR EAST, CHENNAI REPRESENTED BY MANAGER.

2. SMT. KOLLASSERY PRABHAKARAN JAYADEVI DIRECTOR OF M/S.SOWPARNIKA HERBAL EXTRACTS AND PHARMACEUTICALS PVT. LTD., CHENNAI.

3. SMT. VALIPARAMBIL SIDHAN PRIYA, DIRECTOR OF M/S.SOWPARNIKA HERBAL EXTRACTS AND PHARMACEUTICALS PVT. LTD., CHENNAI.

4. SMT. K.H.S.MANIYAN, AUTHORISED SIGNATORY OF M/S.DERCAS MARKED MAKERS LTD., NO.7 M.BLOCK, ANNANAGAR EAST, CHENNAI-600102.

BY ADV. SRI.P.K.ASHOKAN

RESPONDENTS: COMPLAINANT

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1. SENIOR DRUG INSPECTOR, THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.C.4088/2000

ORDER ON CRL.M.P.NO.3783/2000 IN CRL.M.C.NO.4088/2000

DISMISSED

8.10.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

Crl.M.C.No.4088 of 2000

Dated this the 8th day of October, 2007

O R D E R

The petitioners are the accused 1 to 4 in C.C.No.355/99 with respect to the offences under Sections 3 and 4 of the Drugs & Magic Remedies (Objectionable Advertisement) Act 1954. The first petitioner (A1) is the firm represented by its Manager, second and third petitioners are the directors and the fourth petitioner is the representative of the marketing company. They have sought for getting quashed the proceedings on the ground that the alleged advertisement would not constitute violation of the statute and further that there is no averment in compliance of Section 9 of the Act which is mandatory to implicate petitioners 2 and 3. Further, the fourth petitioner is not responsible for the advertisement. The name of the person representing the first petitioner is also not mentioned. It is also contended that there is no averment as to the jurisdiction of the court. The main contention is that no disease as such is mentioned in the application that could be cured by consuming

the drug advertised.

2. Evidently, there are no averments in the complaint as can be seen from the perusal of the complaint with respect to the role of A2 and A3. In the absence of any specific averment vide Section 9, I find that A2 and A3, the directors cannot be implicated. There is no averment as to the role of A4. As pointed out by the counsel for the petitioners there is no averment as to the jurisdiction also.

3. In the circumstances, I find that the complaint cannot be sustained on account of the above defects. Hence, the proceedings in C.C.No.355/99 pending before the Additional Chief Magistrate Court, Thiruvananthapuram is herewith set aside.

The Crl.M.C. is allowed.

K.R.UDAYABHANU,
JUDGE

csl